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7 *[Submitting Counsel on Signature Page]*

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 IN RE: JUUL LABS, INC., MARKETING,
12 SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

13 _____
14 This Document Relates to:
15 ALL ACTIONS
16 _____

Case No. 19-md-02913-WHO

**JOINT STIPULATION AND
[PROPOSED] ORDER TO EXTEND
DEADLINES UNDER LOCAL
RULE 37-3**

1 Pursuant to the Court's Order (ECF No. 2322) following the August 30, 2021 informal
2 discovery conference, the undersigned parties jointly stipulate and agree, subject to the Court's
3 approval, to an extension of the deadline for completion of certain discovery after the August 30,
4 2021 close of fact discovery (ECF No. 2092) and motions to compel under Local Rule 37-3 for
5 certain discovery listed in the attached Appendix A;

6 WHEREAS, Local Rule 37-3 states that "no motions to compel discovery may be filed
7 more than 7 days after the discovery cut-off;"

8 WHEREAS, the fact discovery cut-off in this case, with certain exceptions set forth below
9 regarding bellwether cases, was August 30, 2021, setting the Local Rule 37-3 deadline as
10 September 7, 2021;

11 WHEREAS, the parties have agreed to taking the depositions of more than twenty witnesses
12 after the discovery cutoff;

13 WHEREAS, the Court previously ordered that "the parties shall submit a stipulation" that
14 (1) "shall identify all of the fact discovery the parties **agree** may occur *after* the fact discovery cut
15 off along with the deadline, if any, for any disputes regarding that future discovery to be brought
16 to the Court's attention via a discovery dispute joint letter;" and (2) "to the extent there are
17 outstanding discovery disputes that the parties need more time to confer about . . . , those disputes
18 shall be specifically identified in the stipulation along with a date for bringing the dispute to the
19 Court's attention via a discovery dispute joint letter." (ECF No. 2322)

20 WHEREAS, as directed by the Court, the undersigned parties have set forth in Appendix A
21 the discovery that the parties agree may occur after the fact discovery deadline and outstanding
22 discovery disputes, along with the dates for bringing to the Court any disputes that require the
23 Court's attention;

24 WHEREAS, the undersigned parties anticipate potential disagreements about the
25 timeliness, scope, and/or appropriateness of other discovery issues;

26 WHEREAS, the undersigned parties are working cooperatively to attempt to resolve these
27 and other discovery disputes that have arisen without Court intervention but anticipate that issues
28 will arise after the current Local Rule 37-3 deadline;

1 WHEREAS, nothing in this Stipulation shall or is intended to alter any parties' ability to
2 seek relief beyond these deadlines, subject to a showing of good cause, regarding additional
3 discovery disputes;

4 WHEREAS, certain third-party discovery also remains outstanding that may require the
5 Court's intervention;

6 WHEREAS, nothing in this Stipulation shall, or is intended to, alter the discovery deadlines
7 or related Local Rule 37-3 deadlines with respect to Personal Injury bellwethers B.B., Roberto
8 Pesce, Jayme Westfaul, or Clark Fish; Government Entity bellwethers Tucson Unified School
9 District, U.S.D. 265 (Goddard, KS) or the School Board of Palm Beach County; the to-be-selected
10 Tribal bellwethers; or any additional class representatives who may be identified to represent
11 classes of JUUL purchasers; each of which has or will have a fact discovery deadline different than
12 the August 30, 2021 discovery deadline;

13 WHEREAS, nothing in this Stipulation shall, or is intended to, impose discovery deadlines
14 or related Local Rule 37-3 deadlines with respect to the Distributor, Retailer and E Liquid
15 Defendants who were brought into the case later and are not part of the present bellwether trial
16 schedule, each of which has or will have a fact discovery deadline different than the August 30,
17 2021 discovery deadline;

18 WHEREAS, this Stipulation, by its own terms, shall not operate to extend other deadlines
19 in this case;

20 WHEREAS, Plaintiffs and Defendants have agreed in principle that any witness disclosed
21 on Plaintiffs' Trial Witness List who was not previously been deposed in the MDL may be deposed
22 by Defendants before trial, and any witness on Defendants' Trial Witness Lists who has not been
23 deposed in the MDL may be deposed by Plaintiffs before trial;

24 WHEREAS, the parties have not previously sought an extension of the deadlines under
25 Local Rule 37-3;

26 WHEREAS, the parties met and conferred and have agreed, subject to the Court's approval,
27 stipulate that the deadlines under Local Rule 37-3 should be extended for those issues set forth in
28 Appendix A to the date set forth therein;

1 WHEREAS, the parties have a disagreement as to whether certain issues should be included
2 as set forth on Appendix B and have set forth their respective positions and dates for anticipated
3 presentation to the Court barring resolution therein;

4 **NOW THEREFORE**, the parties, through their undersigned counsel, hereby stipulate,
5 agree and respectfully request that the Court enter an Order establishing the dates set forth in
6 Appendix A as the deadlines to bring motions under Local Rule 37-3 or letter briefs under CMO-
7 6.

1 Dated: September 16, 2021

Respectfully submitted,

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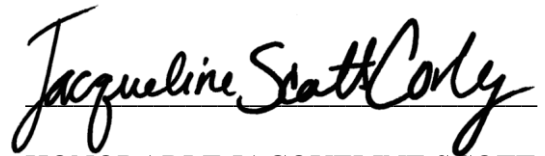
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PURSUANT TO STIPULATION AND GOOD CAUSE SHOWING, IT IS SO ORDERED:

The deadline under Local Rule 37-3 shall be extended and the parties shall bring their remaining disputes before the Court in a manner consistent with the agreed upon process set forth in Appendix A to the Joint Stipulation and [Proposed] Order to Extend Deadlines Under Local Rule 37-3.

Date: September 20, 2021


HONORABLE JACQUELINE SCOTT
CORLEY
United States Magistrate Judge

APPENDIX A

DISCOVERY ISSUE	PROPOSED NEW L.R. 37-3 DEADLINE
<p>1. Fact discovery the parties agree may occur after the fact discovery cut off:</p> <ul style="list-style-type: none"> a. White, Bryan (9/3/2021) b. Zisoulis, Dimitrios (9/8/2021) c. Valani, Riaz (9/30/2021) d. Christensen, Steven (9/9/2021) e. Daviduke, Brian (9/22/2021) f. 30(b)(6) Altria – Notice E (9/29/2021) g. 30(b)(6) Altria - Nicotine (10/14/2021) h. McKinsey & Co. (9/23/21) i. Monsees, James (9/27/21) j. Crosthwaite, Kevin "KC" (10/6/2021) k. Batchan, Mark (TBD) l. Murillo, Joe (TBD) m. Cruise, Daniel(TBD) n. 30(b)(6) JLI - Native American Tribes (10/6/21) o. Stewart, Melanie (9/21/21) p. Simons, Ann (9/23/21) q. Coates, Kimberly (SFUSD 30(b)(1)) (9/8/21) r. Nelson, Cheryl (SFUSD) (9/16/21)) s. Swett, Dacotah (SFUSD 30(b)(1)) (TBD)) t. Wallace, Meghan (SFUSD 30(b)(1) (TBD)) u. Matthews, Dr. Vincent (SFUSD 30(b)(1) (TBD)) v. Pak, Quarry (SFUSD 30(b)(6) & 30(b)(1)) (TBD) w. Ingbrethson, Brad (TBD) 	<p>Parties to set hearing with Court within 7 days of conclusion of deposition</p>
<p>2. Potential Timeliness And/Or Other Objections - Written Discovery</p> <ul style="list-style-type: none"> a. Plaintiffs' Third Set of RFAs to JLI, served on August 25, 2021, relating to authentication of documents b. Plaintiffs' First Set of RFAs to Altria, served on August 25, 2021, relating to authentication of documents c. Plaintiffs' Seventh Set of ROGs, served on JLI on August 13, 2021, regarding JUUL Pods 	<p>Sept. 24, 2021</p>

3. To the extent that Discovery is Ruled to Be Timely or Otherwise is Answered, Disputes Attendant to Responses to:	7 Days After Responses Served
<ul style="list-style-type: none"> a. Plaintiffs' Third Set of RFAs to JLI, served on August 25, 2021, relating to authentication of documents b. Plaintiffs' First Set of RFAs to Altria, served on August 25, 2021, relating to authentication of documents c. Plaintiffs' Seventh Set of ROGs, served on JLI on August 13, 2021, regarding JUUL Pods 	
4. Potential Timeliness And/Or Other Objections - Depositions	Sept. 24, 2021
<ul style="list-style-type: none"> a. 30 (b)(6) Deposition Notice, served on Altria on August 26, 2021 regarding Philip Morris USA Financials b. 30 (b)(6) Deposition Notice, served on JLI on August 20, 2021 regarding product warnings c. 30(b)(6) JLI Study and Testing d. Breja, Siddharth e. 30(b)(6) Sales data btw JLI and Retailers¹ 	
5. Potential Timeliness And/Or Other Objections - Tribal Discovery	Sept. 24, 2021
<ul style="list-style-type: none"> a. First Set of RFPs from MDL Tribal Plaintiffs, served on Altria on August 20, 2021 b. 30 (b)(6) Deposition Notice, served on Altria on August 20, 2021 regarding tribal discovery 	
6. Dispute related to what extent JLI's July 14, 2021 production hit on MDL search parameters.	Sept. 30, 2021
7. Plaintiffs' Sixth Set of ROGs, served on JLI on July 28, 2021, regarding Youth Prevention	7 Days After Response Served
8. King County & SFUSD 30(b)(6) Depositions, Whether Plaintiff Required To Produce Witness on Relief	Sept. 30, 2021
9. Tribal Discovery Schedule re Discovery of Defendants	Sept. 24, 2021
10. Further Disputes Attendant to Bellwether Class Member Records Production	Sept. 24, 2021
11. Further Disputes Attendant to SFUSD Document Production	Sept. 30, 2021
12. JLI's Document Subpoenas To Third Parties	Sept. 30, 2021
<ul style="list-style-type: none"> a. Pop Vapor Co., LLC 	

¹ Plaintiffs' position is that the August 30, 2021 discovery deadline does not apply to this Notice, because this 30(b)(6) deposition is focused on personal injury bellwether case-specific issues. Defendant JLI disagrees. Nevertheless, Plaintiffs agree to resolve and/or submit any issues related to this Notice by the agreed-upon date.

1	b. Banks Middle School, Alabama	
2	c. Elkins Mountain School, W.V.	
3	d. US Naval Academy	
4	e. Turning Point Brands	
5	f. RJ Reynolds Vapor Company	
6	g. Fontem US LLC	
7	h. NJOY, LLC	
8	i. HQDTech USA, LLC	
9	j. San Diegueito High School	
10	k. Sunset High School	
11	13. Current Privilege Disputes	Sept. 24, 2021
12	a. Challenge to JLI clawback of two documents re Ashley Gould.	
13	b. Challenge to JLI clawback of 27 documents remaining in dispute from JLI's May 28, 2021 clawback production.	
14	c. Challenge to JLI privilege log entries including board observers and consultants.	
15	d. Assertions of privilege in deposition of Nora Walker related to "#juulnation".	
16	e. Assertions of privilege in depositions of Harold Handelsman and Adam Bowen.	
17	14. Further Privilege Disputes	Oct. 1, 2021
18	a. <i>In camera</i> review of sample set of the 800 individually challenged entries.	
19	b. Challenges to privilege log produced with Riaz Valani's custodial file	
20	c. Disputes related to ongoing re-review per Court's July 6, 2021 guidance (Dkt. No. 2052)	
21	15. Further Disputes Attendant to Documents Downgraded from the Privilege Challenges Listed under 'Current Privilege Disputes' and 'Further Privilege Disputes'	Oct. 15, 2021
22	16. Challenge to privilege log entries for Altria's production of KC Crosthwaite documents	Oct. 1, 2021
23	17. PMTA Communications with FDA	Oct. 29, 2021
24	18. Defendants' Responses to Plaintiffs' Contention Interrogatories Regarding Affirmative Defenses	Nov. 8, 2021 with respect to Contention Interrogatory Responses Due on 10/25/2021
25		Within 10 days of service of Responses with respect to Answers for any other complaints.

1	19. Further disputes attendant to Altria's production in response to RFPs #1 and #11 in Plaintiff's timely served 7th Set of RFPs	Oct. 15, 2021
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3	20. Unresolved Disputes, if any, Attendant to Government Entity bellwethers San Francisco Unified School District's, King County's, and City of Rochester, New Hampshire's Supplemental Responses to Altria's First Set of Interrogatories	Oct. 22, 2021
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5	21. Disputes attendant to depositions that may occur after the parties' respective disclosure of their Witness Lists	Parties to set hearing with Court within 7 days of conclusion of deposition
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APPENDIX B: ISSUES ON WHICH THE PARTIES DISAGREE

DISCOVERY OR OTHER ISSUES	PLAINTIFFS' POSITION	DEFENDANTS' POSITION	PROPOSED DATE FOR JOINT LETTER BRIEF
1. Disputes related to Plaintiffs' Subpoena for Deposition to Paul Bible	Plaintiffs disagree with the Non-Management Directors' and will seek resolution if necessary.	The Non-Management Directors' position is that any motions related to this issue must be heard in the District of Nevada. Plaintiffs chose to serve a subpoena in the District of Nevada on an individual who resides in Nevada and who serves as the trustee of a Nevada trust.	Oct. 15, 2021
2. Expert Report Supplementation	While not entirely clear what Defendants refer to here, Plaintiffs do not anticipate a dispute on these issues.	Defendants disagree with Plaintiffs on the circumstances under which supplementation of Plaintiffs' expert reports should be permitted and believe that, if Plaintiffs are granted leave to supplement, the schedule for Defendants' responsive reports should be adjusted appropriately.	Nov. 1, 2021